

# House File 2780 - Enrolled

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HOUSE FILE 2780

## AN ACT

RELATING TO PERSONS WITH MENTAL ILLNESS, MENTAL RETARDATION, DEVELOPMENTAL DISABILITIES, OR BRAIN INJURY BY ADDRESSING PURPOSES AND QUALITY STANDARDS FOR SERVICES AND OTHER SUPPORT AVAILABLE FOR SUCH PERSONS, ESTABLISHING BASIC FINANCIAL ELIGIBILITY STANDARDS, ADDRESSING STATE AND COUNTY FINANCIAL RESPONSIBILITY FOR THE COST OF THE SERVICES AND OTHER SUPPORT, CHANGING THE NAME OF A DEPARTMENTAL DIVISION, PROVIDING FOR AN INCREASE IN THE REIMBURSEMENT OF CERTAIN SERVICE PROVIDERS, AND PROVIDING EFFECTIVE AND APPLICABILITY DATES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

## DIVISION I

### PURPOSES AND QUALITY STANDARDS

Section 1. Section 125.82, subsection 3, Code 2005, as amended by 2006 Iowa Acts, Senate File 2362, section 1, if enacted, and 2006 Iowa Acts, Senate File 2217, section 30, if enacted, is amended to read as follows:

3. The person who filed the application and a licensed physician, ~~or qualified mental health professional as defined in section 229.1~~ 228.1, or certified alcohol and drug counselor certified by the nongovernmental Iowa board of substance abuse certification who has examined the respondent in connection with the commitment hearing shall be present at the hearing, unless the court for good cause finds that their presence or testimony is not necessary. The applicant, respondent, and the respondent's attorney may waive the presence or telephonic appearance of the licensed physician, ~~or qualified mental health professional, or certified alcohol and drug counselor~~ who examined the respondent and agree to submit as evidence the written report of the licensed physician, ~~or qualified mental health professional, or certified alcohol and drug counselor~~. The respondent's attorney shall inform the court if the respondent's attorney reasonably believes that the respondent, due to diminished capacity, cannot make an adequately considered waiver decision. "Good cause" for finding that the testimony of the licensed physician, ~~or qualified mental health professional, or certified alcohol and drug counselor~~ who examined the respondent is not necessary may include, but is not limited to, such a waiver. If the court determines that the testimony of the licensed physician, ~~or qualified mental health professional, or certified alcohol and drug counselor~~ is necessary, the court may allow the licensed physician, ~~or qualified mental health professional, or certified alcohol and drug counselor~~ to testify by telephone. The respondent shall be present at the hearing unless prior to the hearing the respondent's attorney stipulates in writing that the attorney has conversed with the respondent, and that in the attorney's judgment the respondent cannot make a meaningful contribution to the hearing, or that the respondent has waived the right to be present, and the basis for the attorney's conclusions. A stipulation to the respondent's absence shall be reviewed by the court before the hearing, and may be rejected if it appears that insufficient grounds are stated or that the respondent's interests would not be served by the respondent's absence.

Sec. 2. Section 225C.1, Code 2005, is amended to read as follows:

### 225C.1 FINDINGS AND PURPOSE.

1. The general assembly finds that services to persons with mental illness, mental retardation, developmental disabilities, or brain injury are provided in many parts of the state by highly autonomous community-based service providers working cooperatively with state and county officials. However, the general assembly recognizes that heavy reliance on property tax funding for mental health and mental retardation services has ~~restricted uniform availability of this care~~ enabled many counties to exceed

3 4 minimum state standards for the services resulting in an  
3 5 uneven level of services around the state. Consequently,  
3 6 greater efforts should be made to assure close coordination  
3 7 and continuity of care for those persons receiving publicly  
3 8 supported disability services in Iowa. It is the purpose of  
3 9 this chapter to continue and to strengthen the services to  
3 10 persons with disabilities now available in the state of Iowa,  
3 11 to make ~~these disability~~ services conveniently available to  
3 12 all persons in this state upon a reasonably uniform financial  
3 13 basis, and to assure the continued high quality of these  
3 14 services.

3 15 2. It is the intent of the general assembly that the  
3 16 service system for persons with disabilities emphasize the  
3 17 ability of persons with disabilities to exercise their own  
3 18 choices about the amounts and types of services received; that  
3 19 all levels of the service system seek to empower persons with  
3 20 disabilities to accept responsibility, exercise choices, and  
3 21 take risks; that disability services are individualized,  
3 22 provided to produce results, flexible, and cost-effective; and  
3 23 that disability services be provided in a manner which  
3 24 supports the ability of persons with disabilities to live,  
3 25 learn, work, and recreate in ~~natural~~ communities of their  
3 26 choice.

3 27 Sec. 3. Section 225C.2, subsection 6, Code 2005, is  
3 28 amended to read as follows:  
3 29 6. "Disability services" means services ~~or~~ and other  
3 30 ~~assistance support~~ available to a person with mental illness,  
3 31 mental retardation or other developmental disability, or brain  
3 32 injury.

3 33 Sec. 4. Section 225C.4, subsection 1, paragraph d, Code  
3 34 2005, is amended to read as follows:  
3 35 d. Encourage and facilitate coordination of disability  
4 1 services with the objective of developing and maintaining in  
4 2 the state a disability service delivery system to provide  
4 3 disability services to all persons in this state who need the  
4 4 services, regardless of the place of residence or economic  
4 5 circumstances of those persons. The administrator shall work  
4 6 with the commission and other state agencies, including but  
4 7 not limited to the departments of corrections, education, and  
4 8 public health and the state board of regents to develop and  
4 9 implement a strategic plan to expand access to qualified  
4 10 mental health workers across the state.

4 11 Sec. 5. Section 225C.4, subsection 1, paragraph j, Code  
4 12 2005, is amended to read as follows:  
4 13 j. Establish and maintain a data collection and management  
4 14 information system oriented to the needs of patients,  
4 15 providers, the department, and other programs or facilities.  
4 16 The administrator shall annually submit to the commission  
4 17 information collected by the department indicating the changes  
4 18 and trends in the disability services system.

4 19 Sec. 6. Section 225C.6, subsection 1, paragraph n, Code  
4 20 2005, is amended to read as follows:  
4 21 n. ~~Identify basic disability services for planning~~  
4 22 ~~purposes disability services outcomes and indicators to~~  
4 23 support the ability of eligible persons with a disability to  
4 24 live, learn, work, and recreate in communities of the persons'  
4 25 choice. The identification duty includes but is not limited  
4 26 to responsibility for identifying, collecting, and analyzing  
4 27 data as necessary to issue reports on outcomes and indicators  
4 28 at the county and state levels.

4 29 Sec. 7. Section 225C.27, Code 2005, is amended to read as  
4 30 follows:  
4 31 225C.27 PURPOSE.  
4 32 Sections 225C.25 through 225C.28B shall be liberally  
4 33 construed and applied to promote their purposes and the stated  
4 34 rights and service quality standards. The commission, in  
4 35 coordination with appropriate agencies, shall adopt rules to  
5 1 implement the purposes of section 225C.28B, subsections 3 and  
5 2 4, which include, but are not limited to, the following:  
5 3 1. Promotion of the human dignity and protection of the  
5 4 constitutional and statutory rights of persons with mental  
5 5 retardation, developmental disabilities, brain injury, or  
5 6 chronic mental illness in the state.

5 7 2. Encouraging the development of the ability and  
5 8 potential of each person with mental retardation,  
5 9 developmental disabilities, brain injury, or chronic mental  
5 10 illness in the state to the fullest extent possible.

5 11 3. Encouraging activities to ensure that recipients of  
5 12 services shall not be deprived of any rights, benefits, or  
5 13 privileges guaranteed by law, the Constitution of the State of  
5 14 Iowa, or the Constitution of the United States solely on

5 15 account of the receipt of the services.

5 16 4. Promoting access by each person in the state with  
5 17 mental retardation, developmental disabilities, brain injury,  
5 18 or chronic mental illness to effective services and other  
5 19 support and treatment essential for living, working, and  
5 20 participating fully in the community.

5 21 Sec. 8. Section 225C.28A, Code 2005, is amended to read as  
5 22 follows:

5 23 225C.28A SERVICE QUALITY STANDARDS.

5 24 As the state participates more fully in funding services  
5 25 and other support to persons with mental retardation,  
5 26 developmental disabilities, brain injury, or chronic mental  
5 27 illness, it is the intent of the general assembly that the  
5 28 state shall seek to attain the following quality standards in  
5 29 the provision of the services:

5 30 1. Provide comprehensive evaluation and diagnosis adapted  
5 31 to the cultural background, primary language, and ethnic  
5 32 origin of the person.

5 33 2. Provide an individual treatment, habilitation, and  
5 34 program plan.

5 35 3. Provide ~~individualized~~ treatment, habilitation, and  
6 1 program services that are individualized, provided to produce  
6 2 results, flexible, and cost-effective, as appropriate.

6 3 4. Provide periodic review of the individual plan.

6 4 5. Provide for the least restrictive environment and age=  
6 5 appropriate services.

6 6 6. Provide appropriate training and employment  
6 7 opportunities so that the person's ability to contribute to  
6 8 and participate in the community is maximized.

6 9 7. Provide an ongoing process to determine the degree of  
6 10 access to and the effectiveness of the services and other  
6 11 support in achieving the disability services outcomes and  
6 12 indicators identified by the commission pursuant to section  
6 13 225C.6.

6 14 Sec. 9. Section 331.439, subsection 1, paragraph b,  
6 15 subparagraphs (2) and (3), Code Supplement 2005, are amended  
6 16 to read as follows:

6 17 (2) For informational purposes, the county shall submit a  
6 18 management plan review to the department of human services by  
6 19 ~~April~~ December 1 of each year. The annual review shall  
6 20 incorporate an analysis of the data associated with the  
6 21 services managed during the preceding fiscal year by the  
6 22 county or by a managed care entity on behalf of the county.  
6 23 The annual review shall also identify measurable outcomes and  
6 24 results showing the county's progress in fulfilling the  
6 25 purposes listed in paragraph "bb", and in achieving the  
6 26 disability services outcomes and indicators identified by the  
6 27 commission pursuant to section 225C.6.

6 28 (3) For informational purposes, every three years the  
6 29 county shall submit to the department of human services a  
6 30 three-year strategic plan. The strategic plan shall describe  
6 31 how the county will proceed to attain the plan's goals and  
6 32 objectives ~~contained in the strategic plan for the duration of~~  
6 33 ~~the plan, and the measurable outcomes and results necessary~~  
6 34 ~~for moving the county's service system toward an~~  
6 35 individualized, community-based focus in accordance with

7 1 paragraph "bb". The three-year strategic plan shall be  
7 2 submitted by April 1, 2000, and by April 1 of every third year  
7 3 thereafter.

7 4 Sec. 10. Section 331.439, subsection 1, Code Supplement  
7 5 2005, is amended by adding the following new paragraphs:

7 6 NEW PARAGRAPH. bb. The county implements its county  
7 7 management plan under paragraph "b" and other service  
7 8 management functions in a manner that seeks to achieve all of  
7 9 the following purposes identified in section 225C.1 for  
7 10 persons who are covered by the plan or are otherwise subject  
7 11 to the county's service management functions:

7 12 (1) The service system seeks to empower persons to  
7 13 exercise their own choices about the amounts and types of  
7 14 services and other support received.

7 15 (2) The service system seeks to empower the persons to  
7 16 accept responsibility, exercise choices, and take risks.

7 17 (3) The service system seeks to provide services and other  
7 18 support that are individualized, provided to produce results,  
7 19 flexible, and cost-effective.

7 20 (4) The service system seeks to provide services and other  
7 21 supports in a manner which supports the ability of the persons  
7 22 to live, learn, work, and recreate in communities of their  
7 23 choice.

7 24 NEW PARAGRAPH. bbb. Commencing with the fiscal year  
7 25 beginning July 1, 2007, the county management plan under

7 26 paragraph "bb" shall do both of the following:  
7 27 (1) Describe how the county will provide services and  
7 28 other support that are individualized, provided to produce  
7 29 results, flexible, and cost-effective in accordance with  
7 30 paragraph "bb", subparagraph (3).  
7 31 (2) Describe how the ability of the individuals covered by  
7 32 the plan to live, learn, work, and recreate in communities of  
7 33 the individuals' choice will be enhanced as provided in  
7 34 paragraph "bb", subparagraph (4).  
7 35 Sec. 11. Section 426B.5, Code Supplement 2005, is amended  
8 1 by adding the following new subsection:  
8 2 NEW SUBSECTION. 3. INCENTIVE POOL.  
8 3 a. An incentive pool is created in the property tax relief  
8 4 fund. The incentive pool shall consist of the moneys credited  
8 5 to the incentive pool by law.  
8 6 b. Moneys available in the incentive pool for a fiscal  
8 7 year shall be distributed to those counties that either meet  
8 8 or show progress toward meeting the purposes described in  
8 9 section 331.439, subsection 1, paragraph "bb". The moneys  
8 10 received by a county from the incentive pool shall be used to  
8 11 build community capacity to support individuals covered by the  
8 12 county's management plan approved under section 331.439, in  
8 13 meeting such purposes.  
8 14 Sec. 12. APPLICABILITY DATE. The section of this division  
8 15 of this Act amending section 426B.5 is first applicable for  
8 16 allowed growth funding distributed in the fiscal year  
8 17 beginning July 1, 2008.  
8 18 DIVISION II  
8 19 FINANCIAL ELIGIBILITY  
8 20 Sec. 13. Section 225C.6, subsection 1, paragraph m, Code  
8 21 2005, is amended to read as follows:  
8 22 m. Identify ~~model~~ basic financial eligibility guidelines  
8 23 standards for disability services. The standards shall  
8 24 include but are not limited to the following:  
8 25 (1) A financial eligibility standard providing that a  
8 26 person with an income equal to or less than one hundred fifty  
8 27 percent of the federal poverty level, as defined by the most  
8 28 recently revised poverty income guidelines published by the  
8 29 United States department of health and human services, is  
8 30 eligible for disability services paid with public funding.  
8 31 However, a county may apply a copayment requirement for a  
8 32 particular disability service to a person with an income equal  
8 33 to or less than one hundred fifty percent of the federal  
8 34 poverty level, provided the disability service and the  
8 35 copayment amount both comply with rules adopted by the  
9 1 commission applying uniform standards with respect to  
9 2 copayment requirements. A person with an income above one  
9 3 hundred fifty percent of the federal poverty level may be  
9 4 eligible subject to a copayment or other cost-sharing  
9 5 arrangement subject to limitations adopted in rule by the  
9 6 commission.  
9 7 (2) A requirement that a person who is eligible for  
9 8 federally funded services and other support must apply for the  
9 9 services and support.  
9 10 (3) Resource limitations that are derived from the federal  
9 11 supplemental security income program limitations. A person  
9 12 with resources above the federal supplemental security income  
9 13 program limitations may be eligible subject to limitations  
9 14 adopted in rule by the commission. If a person does not  
9 15 qualify for federally funded services and other support but  
9 16 meets income, resource, and functional eligibility  
9 17 requirements, the following types of resources shall be  
9 18 disregarded:  
9 19 (a) A retirement account that is in the accumulation  
9 20 stage.  
9 21 (b) A burial, medical savings, or assistive technology  
9 22 account.  
9 23 Sec. 14. ALLOWED GROWTH FUNDING STUDY. A study committee  
9 24 shall be established by the legislative council for the 2006  
9 25 legislative interim to review the formulas used for  
9 26 distribution of state mental health, mental retardation, and  
9 27 developmental disabilities services allowed growth factor  
9 28 funding to counties and other public funding for the services.  
9 29 The purposes of the review include but are not limited to  
9 30 examining the public sources of the funding and programming  
9 31 for the services and to determine whether the formulas are  
9 32 effective in distributing funds to counties in a manner that  
9 33 best serves Iowans with disabilities while enabling the state  
9 34 and counties to budget effectively for providing the services.  
9 35 The study committee shall hear testimony and provide an  
10 1 opportunity for discussion with counties, advocates for

10 2 persons with disabilities, and other interested parties. The  
10 3 membership of the study committee shall include at least six  
10 4 members of the senate and five members of the house of  
10 5 representatives. In addition, the membership shall include  
10 6 four ex officio, nonvoting members with two representing the  
10 7 Iowa state association of counties, one representing the  
10 8 department of human services, and one representing the mental  
10 9 health, mental retardation, developmental disabilities, and  
10 10 brain injury commission. It is the intent of the general  
10 11 assembly that the study committee submit a report with  
10 12 findings and recommendations to the governor, the general  
10 13 assembly, and the commission on or before January 1, 2007.

10 14 DIVISION III

10 15 CENTRAL POINT OF COORDINATION PROCESS == COUNTY OF RESIDENCE  
10 16 RESPONSIBILITIES AND STATE CASES

10 17 Sec. 15. Section 249A.12, subsection 8, as enacted by 2006  
10 18 Iowa Acts, House File 2492, section 1, is amended by striking  
10 19 the subsection and inserting in lieu thereof the following:

10 20 8. If a person with mental retardation has no legal  
10 21 settlement or the legal settlement is unknown so that the  
10 22 person is deemed to be a state case and services associated  
10 23 with the mental retardation can be covered under a medical  
10 24 assistance home and community-based waiver or other medical  
10 25 assistance program provision, the nonfederal share of the  
10 26 medical assistance program costs for such coverage shall be  
10 27 paid from the appropriation made for the medical assistance  
10 28 program.

10 29 Sec. 16. Section 331.440, Code 2005, is amended by adding  
10 30 the following new subsection:

10 31 NEW SUBSECTION. 1A. For the purposes of this section,  
10 32 unless the context otherwise requires:

10 33 a. "Adult person" means a person who is age eighteen or  
10 34 older and is a United States citizen or a qualified alien as  
10 35 defined in 8 U.S.C. } 1641.

11 1 b. "County of residence" means the county in this state in  
11 2 which, at the time an adult person applies for or receives  
11 3 services, the adult person is living and has established an  
11 4 ongoing presence with the declared, good faith intention of  
11 5 living for a permanent or indefinite period of time. The  
11 6 county of residence of an adult person who is a homeless  
11 7 person is the county where the homeless person usually sleeps.

11 8 c. "Homeless person" means the same as defined in section  
11 9 48A.2.

11 10 d. "State case services and other support" means the  
11 11 mental health, mental retardation, and developmental  
11 12 disabilities services and other support paid for under the  
11 13 rules and requirements in effect prior to October 1, 2006,  
11 14 from the annual appropriation made to the department of human  
11 15 services for such services and other support provided to  
11 16 persons who have no established county of legal settlement or  
11 17 the legal settlement is unknown so that the person is deemed  
11 18 to be a state case. Such services and other support do not  
11 19 include medical assistance program services or services  
11 20 provided in a state institution.

11 21 Sec. 17. Section 331.440, subsection 3, Code 2005, is  
11 22 amended to read as follows:

11 23 3. An application for services may be made through the  
11 24 central point of coordination process of ~~a an adult person's~~  
11 25 county of residence. ~~However, if a Effective July 1, 2007, if~~  
11 26 ~~an adult person who is subject to a central point of~~

~~11 27 coordination process has legal settlement in another county,~~  
~~11 28 or the costs of services or other support provided to the~~  
~~11 29 person are the financial responsibility of the state, an~~  
~~11 30 authorization through the central point of coordination~~  
~~11 31 process shall be coordinated with the person's county of legal~~  
~~11 32 settlement or with the state, as applicable. The county of~~  
~~11 33 residence and county of legal settlement of a person subject~~  
~~11 34 to a central point of coordination process may mutually agree~~  
~~11 35 that the central point of coordination process functions shall~~  
12 1 be performed by the central point of coordination process of  
12 2 the person's county of legal settlement residence in  
12 3 accordance with the county of residence's management plan  
12 4 approved under section 331.439 and the person's county of  
12 5 legal settlement is responsible for the cost of the services  
12 6 or other support authorized at the rates reimbursed by the  
12 7 county of residence. At the time services or other support  
12 8 are authorized, the county of residence shall send the county  
12 9 of legal settlement a copy of the authorization notice.

12 10 Sec. 18. Section 331.440, Code 2005, is amended by adding  
12 11 the following new subsection:

12 12 NEW SUBSECTION. 3A. Effective October 1, 2006, if an

12 13 adult person has no established county of legal settlement or  
12 14 the legal settlement is unknown so that the person is deemed  
12 15 to be a state case, the person's eligibility and the  
12 16 authorization for state case services and other support shall  
12 17 be determined by the adult person's county of residence in  
12 18 accordance with that county's management plan approved under  
12 19 section 331.439. The costs of the state case services and  
12 20 other support provided for the person shall be the  
12 21 responsibility of the person's county of legal residence. The  
12 22 funding appropriated to the department of human services for  
12 23 purposes of the state case services and other support shall be  
12 24 distributed as provided in the appropriation to the counties  
12 25 of residence responsible for the costs.

12 26 Sec. 19. EFFECTIVE DATE == COST PROJECTIONS == LEGISLATIVE  
12 27 INTENT.

12 28 1. a. The section of this division of this Act that  
12 29 amends section 331.440, subsection 3, takes effect July 1,  
12 30 2007.

12 31 b. This section, being deemed of immediate importance,  
12 32 takes effect upon enactment, and the department shall begin  
12 33 implementation upon enactment.

12 34 2. a. The department of human services and counties, in  
12 35 consultation with the legislative services agency, shall  
13 1 develop a methodology for distributing the funding  
13 2 appropriated for the fiscal year beginning July 1, 2006, for  
13 3 state case services and other support, as defined in this  
13 4 division of this Act, to counties for county residents who  
13 5 receive state case services and other support, on and after  
13 6 October 1, 2006. The methodology shall be based upon  
13 7 historical usage, projected usage, and significant increases  
13 8 anticipated in county costs. The department and counties  
13 9 shall share with one another names and necessary information  
13 10 concerning the individuals who have been identified by the  
13 11 department or counties. The methodology shall provide for  
13 12 quarterly distributions.

13 13 b. The base funding amount used for the distribution  
13 14 methodology to counties shall be 75 percent of the amount  
13 15 appropriated for state case services and other support plus  
13 16 any reversions from the previous fiscal year's appropriation,  
13 17 the amount transferred from block grant funding, and any other  
13 18 source designated by law. The base funding amount may be  
13 19 adjusted for relevant purposes that may include but are not  
13 20 limited to an adjustment to reflect the expenditure savings  
13 21 realized from renegotiation of the contract with the  
13 22 contractor providing managed care for mental health services  
13 23 made pursuant to this division of this Act.

13 24 c. Prior to September 1, 2006, the department shall meet  
13 25 with each county to analyze the actual numbers of individuals  
13 26 who are eligible for state case services and other support and  
13 27 who as county residents will be the financial and management  
13 28 responsibility of the county effective October 1, 2006, the  
13 29 historical costs of state case services and other support  
13 30 provided to such individuals by the department, the projected  
13 31 increase in cost of providing state case services and other  
13 32 support to such individuals in accordance with the county  
13 33 management plan, and the projected cost to provide state case  
13 34 services and other support at county reimbursement rates in  
13 35 lieu of the capped reimbursement rates paid by the state. The  
14 1 purpose of the analysis is for the department, in consultation  
14 2 with each county, to determine by September 1, 2006, an amount  
14 3 needed for the county to fund state case services and other  
14 4 support for county residents for the period beginning October  
14 5 1, 2006, and ending June 30, 2007. If a county disputes the  
14 6 department's determination of the amount needed by the county,  
14 7 the county may appeal the determination to the director of  
14 8 human services. The county shall file the appeal within 30  
14 9 days of the issuance date of the determination. The  
14 10 director's decision shall be considered to be a final agency  
14 11 decision and may be appealed as provided in chapter 17A.  
14 12 While an appeal is pending, the department shall provide  
14 13 funding to the county for state cases in the amount determined  
14 14 by the department, subject to later adjustment based upon the  
14 15 outcome of the appeal.

14 16 d. If the aggregate of the amounts determined for each  
14 17 county, as provided in paragraph "c", exceeds the base funding  
14 18 amount determined under paragraph "b", notwithstanding section  
14 19 331.440, subsection 3A, as enacted by this division of this  
14 20 Act, the department of human services shall retain  
14 21 responsibility for the costs of state case services and other  
14 22 support for persons deemed to be a state case through June 30,  
14 23 2007. The department shall report to the governor and general

14 24 assembly on or before December 1, 2006, recommendations to  
14 25 address the funding shortfall.

14 26 e. If the aggregate of the amounts determined for each  
14 27 county, as provided in paragraph "c", is less than the base  
14 28 funding amount determined under paragraph "b", the amounts  
14 29 determined shall be distributed to the counties and the excess  
14 30 amount shall be reserved for distribution as provided in  
14 31 paragraph "f".

14 32 f. (1) If a county becomes responsible for a new  
14 33 individual state case whose costs were not included in the  
14 34 amounts determined under paragraph "c", the county shall  
14 35 supply the individual's application and service and other  
15 1 support needs to the department for an eligibility  
15 2 determination and identification of funding availability. If  
15 3 the county disputes the department's determination, the appeal  
15 4 provisions under paragraph "c" shall apply.

15 5 (2) If an existing state case has a change in condition  
15 6 that results in significant additional costs that cannot be  
15 7 offset by savings from other state cases or other means, the  
15 8 county may apply to the department for relief to address the  
15 9 additional costs. Relief payments approved by the department  
15 10 shall be paid from the excess amount reserved under paragraph  
15 11 "e" and are limited to that amount. In addition, if a county  
15 12 has such additional costs and either did not apply for relief  
15 13 or the application was denied in whole or in part because at  
15 14 the time of the application the excess amount reserved under  
15 15 paragraph "e" was projected to be insufficient, the county may  
15 16 apply for any funds from any excess amount available under  
15 17 paragraph "e" that would otherwise remain unexpended or  
15 18 unobligated at the close of the fiscal year. Otherwise, the  
15 19 state liability for the cost of the state case services and  
15 20 other support authorized by a county of residence is limited  
15 21 to the amount distributed to the county.

15 22 g. The state's liability for state case services and other  
15 23 support for the fiscal year beginning July 1, 2006, is limited  
15 24 to the amount appropriated.

15 25 h. The provisions of this subsection shall be adopted in  
15 26 rule as necessary to implement the provisions. The mental  
15 27 health, mental retardation, developmental disabilities, and  
15 28 brain injury commission may adopt administrative rules under  
15 29 section 17A.4, subsection 2, and section 17A.5, subsection 2,  
15 30 paragraph "b", to implement the provisions and the rules shall  
15 31 become effective immediately upon filing or on a later  
15 32 effective date specified in the rules, unless the effective  
15 33 date is delayed by the administrative rules review committee.  
15 34 Any rules adopted in accordance with this subsection shall not  
15 35 take effect before the rules are reviewed by the  
16 1 administrative rules review committee. The delay authority  
16 2 provided to the administrative rules review committee under  
16 3 section 17A.4, subsection 5, and section 17A.8, subsection 9,  
16 4 shall be applicable to a delay imposed under this subsection,  
16 5 notwithstanding a provision in those sections making them  
16 6 inapplicable to section 17A.5, subsection 2, paragraph "b".  
16 7 Any rules adopted in accordance with the provisions of this  
16 8 subsection shall also be published as notice of intended  
16 9 action as provided in section 17A.4.

16 10 3. Each county that would need to amend the county's  
16 11 management plan for services approved under section 331.439 in  
16 12 order to implement the provisions of this division of this Act  
16 13 amending section 331.440, subsection 3, to take effect on July  
16 14 1, 2007, shall develop and submit projections of the costs to  
16 15 the county to implement the provisions. The projections shall  
16 16 identify costs in the initial and succeeding fiscal years.  
16 17 The projections shall be submitted on December 1, 2006, along  
16 18 with the county's expenditure report submitted pursuant to  
16 19 section 331.439, subsection 1, paragraph "a". The  
16 20 projections, along with any findings and recommendations  
16 21 identified by the county, shall be submitted at the same time  
16 22 to the department of human services, the mental health, mental  
16 23 retardation, developmental disabilities, and brain injury  
16 24 commission, and the general assembly.

16 25 4. The department of human services shall renegotiate the  
16 26 department's contract with the contractor providing managed  
16 27 care for mental health services under the medical assistance  
16 28 program so that any responsibility for the contractor to  
16 29 manage state case services and other support, as defined by  
16 30 this division of this Act, will end on or before September 30,  
16 31 2006. The expenditure savings realized from making this  
16 32 change shall remain with the state case appropriation for  
16 33 distribution to counties of residence.

16 34 5. The department of human services and counties shall

16 35 work with the department's consultant to develop a proposal  
17 1 for a case rate system that may be used in subsequent fiscal  
17 2 years for distributing funding to counties for the state case  
17 3 services and other support provided to county residents. The  
17 4 case rate system proposal developed is subject to approval by  
17 5 the mental health, mental retardation, developmental  
17 6 disabilities, and brain injury commission, shall be submitted  
17 7 to the governor and general assembly in January 2007, and  
17 8 shall not be implemented unless a statute specifically  
17 9 authorizing implementation of the system is enacted.

17 10 DIVISION IV

17 11 DIVISION NAME CHANGE

17 12 Sec. 20. Section 135C.25, subsection 1, Code 2005, is  
17 13 amended to read as follows:

17 14 1. Each health care facility shall have a resident  
17 15 advocate committee whose members shall be appointed by the  
17 16 director of the department of elder affairs or the director's  
17 17 designee. A person shall not be appointed a member of a  
17 18 resident advocate committee for a health care facility unless  
17 19 the person is a resident of the service area where the  
17 20 facility is located. The resident advocate committee for any  
17 21 facility caring primarily for persons with mental illness,  
17 22 mental retardation, or a developmental disability shall only  
17 23 be appointed after consultation with the administrator of the  
17 24 division of mental health and ~~developmental disabilities~~  
17 25 disability services of the department of human services on the  
17 26 proposed appointments. Recommendations to the director or the  
17 27 director's designee for membership on resident advocate  
17 28 committees are encouraged from any agency, organization, or  
17 29 individual. The administrator of the facility shall not be  
17 30 appointed to the resident advocate committee and shall not be  
17 31 present at committee meetings except upon request of the  
17 32 committee.

17 33 Sec. 21. Section 217.6, unnumbered paragraph 2, Code 2005,  
17 34 is amended to read as follows:

17 35 The department of human services may be initially divided  
18 1 into the following divisions of responsibility: the division  
18 2 of child and family services, the division of mental health  
18 3 and ~~developmental disabilities~~ disability services, the  
18 4 division of administration, and the division of planning,  
18 5 research and statistics.

18 6 Sec. 22. Section 217.10, Code 2005, is amended to read as  
18 7 follows:

18 8 217.10 ADMINISTRATOR OF DIVISION OF MENTAL HEALTH AND  
18 9 ~~DEVELOPMENTAL DISABILITIES~~ DISABILITY SERVICES.

18 10 The administrator of the division of mental health and  
18 11 ~~developmental disabilities~~ disability services shall be  
18 12 qualified as provided in section 225C.3, subsection 3. The  
18 13 administrator's duties are enumerated in section 225C.4.

18 14 Sec. 23. Section 221.2, Code 2005, is amended to read as  
18 15 follows:

18 16 221.2 ADMINISTRATOR.

18 17 Pursuant to the compact, the administrator of the division  
18 18 of mental health and ~~developmental disabilities~~ disability  
18 19 services of the department of human services shall be the  
18 20 compact administrator. The compact administrator may  
18 21 cooperate with all departments, agencies, and officers of this  
18 22 state and its subdivisions in facilitating the proper  
18 23 administration of the compact and of any supplementary  
18 24 agreement entered into by this state under the compact.

18 25 Sec. 24. Section 225C.2, subsections 1 and 7, Code 2005,  
18 26 are amended to read as follows:

18 27 1. "Administrator" means the administrator of the division  
18 28 ~~of mental health and developmental disabilities of the~~  
18 29 ~~department of human services.~~

18 30 7. "Division" means the division of mental health and  
18 31 ~~developmental disabilities~~ disability services of the  
18 32 ~~department of human services.~~

18 33 Sec. 25. Section 225C.13, subsection 2, Code Supplement  
18 34 2005, is amended to read as follows:

18 35 2. The ~~division~~ administrator of the ~~division of mental~~  
19 1 ~~health and developmental disabilities~~ may work with the  
19 2 appropriate administrator of the department's institutions to  
19 3 establish mental health and mental retardation services for  
19 4 all institutions under the control of the director of human  
19 5 services and to establish an autism unit, following mutual  
19 6 planning and consultation with the medical director of the  
19 7 state psychiatric hospital, at an institution or a facility  
19 8 administered by the department to provide psychiatric and  
19 9 related services and other specific programs to meet the needs  
19 10 of autistic persons, and to furnish appropriate diagnostic



19 11 evaluation services.

19 12 Sec. 26. Section 230A.1, Code 2005, is amended to read as

19 13 follows:

19 14 230A.1 ESTABLISHMENT AND SUPPORT OF COMMUNITY MENTAL

19 15 HEALTH CENTERS.

19 16 A county or affiliated counties, by action of the board or

19 17 boards of supervisors, with approval of the administrator of

19 18 the division of mental health and ~~developmental disabilities~~

19 19 disability services of the department of human services, may

19 20 establish a community mental health center under this chapter

19 21 to serve the county or counties. This section does not limit

19 22 the authority of the board or boards of supervisors of any

19 23 county or group of counties to continue to expend money to

19 24 support operation of the center, and to form agreements with

19 25 the board of supervisors of any additional county for that

19 26 county to join in supporting and receiving services from or

19 27 through the center.

19 28 Sec. 27. Section 230A.13, unnumbered paragraph 2, Code

19 29 2005, is amended to read as follows:

19 30 Release of administrative and diagnostic information, as

19 31 defined in section 228.1, ~~subsections 1 and 3~~, and demographic

19 32 information necessary for aggregated reporting to meet the

19 33 data requirements established by the department of human

19 34 services, division of mental health and ~~developmental~~

19 35 ~~disabilities~~ disability services, relating to an individual

20 1 who receives services from a community mental health center

20 2 through the applicable central point of coordination process,

20 3 may be made a condition of support of that center by any

20 4 county under this section.

20 5 Sec. 28. Section 230A.16, unnumbered paragraph 1, Code

20 6 2005, is amended to read as follows:

20 7 The administrator of the division of mental health and

20 8 ~~developmental disabilities~~ disability services of the

20 9 department of human services shall recommend and the mental

20 10 health, mental retardation, developmental disabilities, and

20 11 brain injury commission shall adopt standards for community

20 12 mental health centers and comprehensive community mental

20 13 health programs, with the overall objective of ensuring that

20 14 each center and each affiliate providing services under

20 15 contract with a center furnishes high quality mental health

20 16 services within a framework of accountability to the community

20 17 it serves. The standards shall be in substantial conformity

20 18 with those of the psychiatric committee of the joint

20 19 commission on accreditation of health care organizations and

20 20 other recognized national standards for evaluation of

20 21 psychiatric facilities unless in the judgment of the

20 22 administrator of the division of mental health and

20 23 ~~developmental disabilities~~ disability services, with approval

20 24 of the mental health, mental retardation, developmental

20 25 disabilities, and brain injury commission, there are sound

20 26 reasons for departing from the standards. When recommending

20 27 standards under this section, the administrator of the

20 28 division shall designate an advisory committee representing

20 29 boards of directors and professional staff of community mental

20 30 health centers to assist in the formulation or revision of

20 31 standards. At least a simple majority of the members of the

20 32 advisory committee shall be lay representatives of community

20 33 mental health center boards of directors. At least one member

20 34 of the advisory committee shall be a member of a county board

20 35 of supervisors. The standards recommended under this section

21 1 shall include requirements that each community mental health

21 2 center established or operating as authorized by section

21 3 230A.1 shall:

21 4 Sec. 29. Section 230A.16, subsection 3, Code 2005, is

21 5 amended to read as follows:

21 6 3. Arrange for the financial condition and transactions of

21 7 the community mental health center to be audited once each

21 8 year by the auditor of state. However, in lieu of an audit by

21 9 state accountants, the local governing body of a community

21 10 mental health center organized under this chapter may contract

21 11 with or employ certified public accountants to conduct the

21 12 audit, pursuant to the applicable terms and conditions

21 13 prescribed by sections 11.6 and 11.19 and audit format

21 14 prescribed by the auditor of state. Copies of each audit

21 15 shall be furnished by the accountant to the administrator of

21 16 the division of mental health and ~~developmental disabilities~~,

21 17 disability services and the board of supervisors supporting

21 18 the audited community mental health center.

21 19 Sec. 30. Section 230A.17, Code 2005, is amended to read as

21 20 follows:

21 21 230A.17 REVIEW AND EVALUATION.

21 22 The administrator of the division of mental health and  
21 23 ~~developmental disabilities disability services~~ of the  
21 24 department of human services may review and evaluate any  
21 25 community mental health center upon the recommendation of the  
21 26 mental health, mental retardation, developmental disabilities,  
21 27 and brain injury commission, and shall do so upon the written  
21 28 request of the center's board of directors, its chief medical  
21 29 or administrative officer, or the board of supervisors of any  
21 30 county from which the center receives public funds. The cost  
21 31 of the review shall be paid by the division.

21 32 Sec. 31. Section 262.70, Code 2005, is amended to read as  
21 33 follows:

21 34 262.70 EDUCATION, PREVENTION, AND RESEARCH PROGRAMS IN  
21 35 MENTAL HEALTH AND ~~MENTAL RETARDATION~~ DISABILITY SERVICES.

22 1 The division of mental health and ~~developmental~~  
22 2 ~~disabilities disability services~~ of the department of human  
22 3 services may contract with the board of regents or any  
22 4 institution under the board's jurisdiction to establish and  
22 5 maintain programs of education, prevention, and research in  
22 6 the fields of mental health, ~~and mental retardation,~~  
22 7 ~~developmental disabilities, and brain injury.~~ The board may  
22 8 delegate responsibility for these programs to the state  
22 9 psychiatric hospital, the university hospital, or any other  
22 10 appropriate entity under the board's jurisdiction.

22 11 Sec. 32. Section 331.440A, subsection 7, paragraph a,  
22 12 subparagraph (3), Code 2005, is amended to read as follows:

22 13 (3) One individual designated by the division of medical  
22 14 services of the department of human services and one  
22 15 individual designated by the division of mental health and  
22 16 ~~developmental disabilities disability services~~ of the  
22 17 department of human services.

22 18 Sec. 33. Section 331.756, subsection 45, Code Supplement  
22 19 2005, is amended to read as follows:

22 20 45. Appear on behalf of the administrator of the division  
22 21 of mental health and ~~developmental disabilities disability~~  
22 22 ~~services~~ of the department of human services in support of an  
22 23 application to transfer a person with mental illness who  
22 24 becomes incorrigible and dangerous from a state hospital for  
22 25 persons with mental illness to the Iowa medical and  
22 26 classification center as provided in section 226.30.

22 27 Sec. 34. CODE EDITOR == NAME CHANGE DIRECTIVE. The Code  
22 28 editor shall revise the headnote to section 225C.3 to reflect  
22 29 the change in the name of the division of mental health and  
22 30 developmental disabilities to the division of mental health  
22 31 and disability services made pursuant to this division of this  
22 32 Act.

22 33 Sec. 35. REQUIREMENT TO REESTABLISH DIVISION. The general  
22 34 assembly finds that the scope and importance of the department  
22 35 of human services' duties under law involving mental health,  
23 1 mental retardation, developmental disabilities, and brain  
23 2 injury services justifies assigning those duties to a separate  
23 3 division in place of the current practice in which the duties  
23 4 are assigned to a division serving many disparate populations.  
23 5 Therefore, during the fiscal year beginning July 1, 2006,  
23 6 contingent upon the appropriation of funding for this purpose,  
23 7 the director of human services shall reestablish a separate  
23 8 division, to be known as the division of mental health and  
23 9 disability services, and shall appropriately assign to that  
23 10 division the department's duties under law involving such  
23 11 services.

#### 23 12 DIVISION V

##### 23 13 REIMBURSEMENT PROVISIONS

23 14 Sec. 36. FY 2006=2007 MEDICAL ASSISTANCE PROGRAM  
23 15 REIMBURSEMENT OF INPATIENT MENTAL HEALTH SERVICES, COMMUNITY  
23 16 MENTAL HEALTH CENTERS, AND PSYCHIATRISTS. In combination with  
23 17 any other reimbursement increases authorized by law for the  
23 18 indicated providers, the department of human services shall  
23 19 seek federal approval to amend the medical assistance program  
23 20 state plan and shall amend the contract with the department's  
23 21 managed care contractor for mental health services under the  
23 22 program, in order to increase medical assistance program  
23 23 reimbursement rates beginning October 1, 2006, to not more  
23 24 than the maximum amounts indicated, for all of the following  
23 25 providers:

23 26 1. Inpatient mental health services provided at hospitals  
23 27 at the cost of the services, subject to Medicaid program upper  
23 28 payment limit rules.

23 29 2. Community mental health centers and providers of mental  
23 30 health services to county residents pursuant to a waiver  
23 31 approved under section 225C.7, subsection 3, at 100 percent of  
23 32 the reasonable costs for the provision of services to

23 33 recipients of medical assistance.  
23 34 3. Psychiatrists at the medical assistance program fee for  
23 35 service rate.  
24 1 Implementation of the provisions of this section is  
24 2 contingent upon receipt of federal approval and limited to the  
24 3 funding made available through amending the contract with the  
24 4 managed care contractor.

24 5 DIVISION VI  
24 6 STATE MANDATE  
24 7 Sec. 37. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
24 8 3, shall not apply to this Act.  
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24 12 \_\_\_\_\_  
24 13 CHRISTOPHER C. RANTS  
24 14 Speaker of the House  
24 15

24 16  
24 17 \_\_\_\_\_  
24 18 JEFFREY M. LAMBERTI  
24 19 President of the Senate

24 20 I hereby certify that this bill originated in the House and  
24 21 is known as House File 2780, Eighty-first General Assembly.  
24 22

24 23  
24 24  
24 25 \_\_\_\_\_  
24 26 MARGARET THOMSON  
24 27 Chief Clerk of the House

24 28 Approved \_\_\_\_\_, 2006  
24 29

24 30  
24 31 \_\_\_\_\_  
24 32 THOMAS J. VILSACK  
Governor